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December 27, 2023

Via ECF

Hon. Mary Kay Vyskocil
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St. New York, NY 10007

Re: Style Stitch, Inc. v. The Avyan Group, LLC 1:23-cv-10701-MKV
Pre-motion Letter Response by Plaintiff
Personal Jurisdiction

Dear Judge Vyskocil:

The undersigned, as counsel of record for Plaintiff Style Stitch, Inc. ("SSI"), is in receipt of Defendant's pre-motion letter. *See* Dk. No. 10. This is the first time the undersigned has learned of the Defendant's jurisdictional concerns. *Id.* We now respond to the Defendant's letter, pursuant to your Honor's Individual Rules, Section 4(A)(i).

In short, SSI has met the pleadings burden set forth by Federal Rule (8)(a)(1) to establish that the Court has jurisdiction over the Defendant under N.Y. CPLR 302.

By the way of background in our Circuit, prior to discovery, SSI need only make a *prima facie* showing of personal jurisdiction. *Warner Bros. Entm't Inc. v. Ideal World Direct*, 516 F. Supp. 2d 261, 265 (S.D.N.Y. 2007) (*quoting Ball v. Metallurgie Hoboken-Overpelt, S.A.*, 902 F.2d 194, 197 (2d Cir. 1990)) ("If the defendant is content to challenge only the sufficiency of the plaintiff's factual allegation, in effect demurring by filing a Rule 12(b)(2) motion . . . the plaintiff need persuade the court only that its factual allegations constitute a *prima facie* showing of jurisdiction."); *Baron Philippe de Rothschild, S.A. v. Paramount Distillers, Inc.*, 923 F. Supp. 433, 435 (S.D.N.Y. 1996). Furthermore, at this fledgling stage, the Court must accept the Plaintiff's allegations as true. *Brass v. Am. Film Techs., Inc.*, 987 F.2d 142, 150 (2d Cir. 1993).

Under CPLR 302 "a court may exercise personal jurisdiction over any non-domiciliary . . . who . . . transacts any business within the state" (CPLR 302(a)(1)). "By this single act statute . . . proof of one transaction in New York is sufficient to invoke jurisdiction . . . so long as the defendant's activities here were purposeful." *Deutsche*

Bank Sec., Inc. v Montana Bd. of Invs., 7 NY3d 65, 71, 850 NE2d 1140, 818 NYS2d 164 (2006) [internal quotation marks omitted]. Relevant to Defendant's woeful position, this Court has established that "the nature and purpose of a solitary business meeting conducted for a single day in New York may supply the minimum contacts necessary to subject a nonresident participant to the jurisdiction of our [C]ourts" (*Presidential Realty Corp. v Michael Sq. W.*, 44 NY2d 672, 673, 376 NE2d 198, 405 NYS2d 37 (1978)).

Here, the operative Complaint (Dkt.No. 01) passes muster to survive a challenge to personal jurisdiction pursuant to the established law. While the Defendant's pre-motion letter is devoid of any specific citations or paragraphical references to the operation Complaint (Dkt. No. 01), in the said Complaint, for instance, *inter alia*, the Plaintiff alleges the following that meets the threshold for personal jurisdiction:

1. The Defendant has a showroom and/or office space in New York City's famed Garment Center in midtown Manhattan in furtherance of its garment wholesale / distribution business. *See* Complaint, ¶ 3.
2. In order to solicit, market and sell its products, the Defendant routinely and systematically rents showroom space in New York City's Garment Center to meet with retail buyers, display Defendant's line, and solicit purchase orders from retailers. *See Id.* at ¶ 12.
3. Defendant meets with Ross Stores, Inc. in its New York City offices to solicit products and prefect orders for production. *See Id.* at ¶ 14.
4. The products at issue between the parties were shipped to New York. *See Id.* at ¶ 22-23; *See* Exhibit A.¹ Exhibit A (*a true and correct copy of a bill of lading between the parties*) makes clear that the Defendant accepted goods in New York from the Plaintiff, as referenced in ¶ 22 of the Complaint.

Giving the forgoing exemplars from the Complaint, the Plaintiff meets its burden to survive the Defendant's contemplated challenge to personal jurisdiction. In the event, the Court disagrees, the Plaintiff preserves its **rights to amend the Complaint under Federal Rule 15(a)(1)(A)**. Moreover, the **Plaintiff would seek the Court's leave for jurisdictional discovery**. *Stratagem Dev. Corp. v. Heron Int'l N.V.*, 153 F.R.D. 535, 547-48 (S.D.N.Y. 1994). *See Alicea v. Lasar Mfg. Co.*, No. 91-CV-3929, 1992 U.S. Dist. LEXIS 13027, 1992 WL 230203, at *1 (S.D.N.Y. Aug. 31, 1992).

Thus, the Defendant's contemplated motion to challenge jurisdiction is facially in consistent with the law, fatal and ripe for discouragement.

Respectfully Submitted,
/s/ Sumeer Kakar
 Sumeer Kakar, Esq.

¹ References of documents in a complaint are incorporated into the complaint by the reference. *See* Federal Rule 10(c).

Exhibit A

COMMERCIAL INVOICE					
Manufacturer/Exporter M/s.Style Stitch Inc Plot No. 374 , Udyog Vihar , Sector-37 Phase - VI , Gurgaon -122001 HARYANA/ INDIA. PAN-ABIFS8720L			Invoice No & Date SSI/120/22-23 , DT- 18.02.2023 Buyers Order No & Date 900064 Other Reference (s) IEC NO. 0507033647		
Consignee THE AVYAN GROUP LLC 5 CAMBRIDGE WAY PRINCETON JUNCTION NJ-08550 U.S.A. PHONE:+1 201 245 5120			Buyer (if other than consignee) THE AVYAN GROUP LLC 5 CAMBRIDGE WAY PRINCETON JUNCTION NJ-08550 U.S.A. PHONE:+1 201 245 5120		
NOTIFY & DELIVERY ADDRESS SAME AS CONSIGNEE			Country of Origin INDIA		Country of Final Destination U.S.A
Carriage by SEA			Place of Receipt NEW DELHI		Terms Of Delivery and Payment: PAYMENT : TT 30% Advance Balance after 45 Days FREIGHT : Collect SHIPMENT BY SEA FOB INDIA PORT
Vessel/Flight No			Port of Loading NHAVA SHEVA		
Port of Discharge NEW YORK			Final Destination U.S.A		
Container No CARTONS 1- 851			Quantity (in PCS)		Unit Price FOB USD
Total Amount FOB USD			Quantity (in PCS)		Unit Price FOB USD
Order # 900064			DESCRIPTION 100% COTTON LADIES WOVEN SOLID S/SLV SHIRT		Total Amount FOB USD
Order # 900064			STORE NAME/ HTS CODE LOLA RIVER /6206303041-341 LOLA RIVER / 6206303011-341		STYLE # LR1014 LR1012 LR1011
COLOR NAME White White Tranquil Blue Green Fig			Item Description S/Slv Shirt		Quantity 15120 10120 5248 5248
Unit Price 4.45 4.45 4.25 4.25			Total Amount 67,284.00 45,034.00 22,304.00 22,304.00		Quantity 35736
Unit Price 4.45 4.45 4.25 4.25			Total Amount 67,284.00 45,034.00 22,304.00 22,304.00		Unit Price 4.45 4.45 4.25 4.25
Total Amount 156,926.00			Quantity 35736		Unit Price 4.45 4.45 4.25 4.25
THROUGH BANK ICICI BANK LTD , MUMBAI (INDIA) RAHEJA SQUARE , IMT-MANESAR , GURGAON-HARYANA -122050 Bank AD Code: 6390556 ACCOUNT NO : 035805000575 BRANCH MANESAR BRANCH ABA FED NO. 21000021 SWIFT CODE ICICINBBCTS			Amount Chargeable (in Words) USD: ONE LACS FIFTY SIX THOUSAND NINE HUNDRED TWENTY SIX ONLY.		
Declaration : We declare that this invoice shows the actual price of the goods described and that all particulars are true and correct			Under LUT No. AD060322012904I For Style Stitch Inc Authorised Signatory		